

APPEAL NO. 023146
FILED FEBRUARY 5, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on October 29, 2002, with the record closing on November 20, 2002. The hearing officer determined that the appellant (claimant) did not sustain an injury in the course and scope of employment and did not have disability. The claimant appeals, arguing that the hearing officer ignored, without basis, the medical evidence and testimony in the record. The respondent (carrier) responds, seeking affirmance.

DECISION

We affirm the hearing officer's decision.

At issue was whether the claimant sustained bilateral hernia injuries, including aggravation of preexisting hernias, while he lifted cylinders on _____, for his employer. The claimant's treating doctor testified that in August 2001, he discovered one hernia and one "weakness" in the groin area upon examination for other gastrointestinal complaints of the claimant. When he examined the claimant in October 2001, the claimant had unmistakable bilateral hernias. The doctor concluded that something had happened between his examinations to cause the enlargement, and by history given by the claimant, concluded it was traumatic and work related. He acknowledged that a sneeze or other incident could have caused this as well.

Evidence was offered as to whether the claimant had been "written up" for performance issues and whether he had continued to work without complaint after the alleged injury. The supervisor in charge of workers' compensation claims for the employer testified that the claimant had told her that he would not be filing a claim because he was not sure where the hernias occurred.

The decision of the hearing officer will be set aside only if the evidence supporting the hearing officer's determination is so weak or against the overwhelming weight of the evidence as to be clearly wrong or manifestly unjust. Atlantic Mutual Insurance Company v. Middleman, 661 S.W.2d 182 (Tex. App.-San Antonio 1983, writ ref'd n.r.e.). The decision should not be set aside because different inferences and conclusions may be drawn upon review, even when the record contains evidence that would lend itself to different inferences. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ).

We have reviewed the evidence and although different inferences could be drawn, the record is not such that the inferences drawn by the hearing officer are against the great weight and preponderance of the evidence. Accordingly, we affirm the decision and order.

The true corporate name of the insurance carrier is **OLD REPUBLIC INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**PRENTICE-HALL CORPORATION SYSTEM, INC.
800 BRAZOS, SUITE 750, COMMODORE 1
AUSTIN, TEXAS 78701.**

Susan M. Kelley
Appeals Judge

CONCUR:

Daniel R. Barry
Appeals Judge

Michael B. McShane
Appeals Panel
Manager/Judge